August 16, 2013

USPS mail to:
Office of Regulatory Affairs & Collaborative Action – Indian Affairs
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Washington, DC 20240

Email to: consultation@bia.gov

Mr. Kevin Washburn
Assistant Secretary – Indian Affairs
Bureau of Indian Affairs
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Public Comment-Preliminary Discussion Draft Changes to 25 CFR Part 83

Dear Assistant Secretary Washburn:

I commend you and your staff for your bold response to years of critiques of the federal acknowledgment process. Generally, I agree with all changes you are suggesting in the discussion draft, except one. On Page 8 of your draft, at §83.7 Mandatory criteria for federal acknowledgement, I recommend that the BIA should keep *"religious beliefs and practices"* as a part of criteria (b)(1)(vii) and do not agree with deleting it from the criteria.

Additional comments I have for your consideration are as follows: 1) OFA should play more of an advisory and technical assistance to the petitioner role, and should not have the ability to make final determinations, leaving such final decisions to the Assistant Secretary, with a *"more likely than not"* standard granting preference to the petitioner; 2) If the weight of the evidence can demonstrate community continuity of *"more likely than not"* standard, the petitioner should be given the benefit of the doubt; 3) Historic or modern third party nomenclature should not be weighed against a petitioner; 4) Regional and local history that may impact the evidence a petitioner can provide should be considered when evaluating a petition; 5) Greater weight should be given to the supportive testimony of federally recognized Indian tribes that have viewed the petitioner as a historic tribe; 6) A high rate of endogamy within the petitioning group, as well as with other American Indians, should be viewed as a form of political control by the community upon individual members; 7) For criterion 83.7(e), a petitioner should be able to meet the requirement if 30% of their membership as submitted in the petition consists of individuals who descend from a historical Indian tribe, meaning a distinct community identified by 1934 and specifically identified as an American Indian community prior to 1978; 8) Any petitioner that has achieved recognition as an Indian tribe by a state or subdivision of a state prior to 1978

(again, due to the fact that prior to 1978, there wasn't an administrative process for the acknowledgement of an Indian tribe); federal programs, benefits, or services provided to a community of Indians as an Indian tribe by or through any agency of the United States should be presumed to have met evidentiary standard to be acknowledged as an Indian tribe; 9) Previous acknowledgement should not require a functioning *"government-to-government"* relationship but mere acknowledgment of the existence of an Indian community through listing by any federal agency as a distinct Indian community prior to 1978, or receiving services as an Indian community or having individual members receiving services because of their connection with the Indian community, by 1978; 10) Third parties should not be able to derail a positive final decision unless fraud is being alleged against the petitioner's claims and there is evidence to substantiate the need for further investigation.

Finally we are also fully and completely supportive of any additional feedback or comments provided to you by the tribal government of the Haliwa-Saponi Indian Tribe, and ask that you consider any comments as submitted by the Haliwa-Saponi Indian Tribe to also represent additional comments from me.

Sincerely,

Tony O'Brien Davis (Name)

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